

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALBERTO SOTO and
ISMAEL ORTIZ,

Plaintiffs,

v.

No. CIV 96-184 BB/JHG

ARTURO JURADO and
JURADO FARMS,

Defendants.

MEMORANDUM OPINION AND ORDER
DENYING PLAINTIFFS' SECOND
MOTION FOR ATTORNEYS' FEES

Plaintiffs, Alberto Soto and Ismael Ortiz, alleged that Arturo Jurado violated their rights as protected by the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. § 1855(a); the Fair Labor Standards Act ["FLSA"], 29 U.S.C. § 215(a)(3); and 42 U.S.C. § 1985. The case was tried to the Court on February 25-26, 1997. On April 9, 1997, the Court entered judgment for Plaintiffs and awarded each of them damages.

On April 23, 1997, Jurado filed his first motion and brief to amend the judgment. On June 13, 1997, the Court granted Jurado's motion in part and amended the judgment by withdrawing the award of damages under FLSA.

Additionally, in the amended judgment, the Court awarded attorneys' fees to Plaintiffs in the amount of \$67,637.50.

On June 27, 1997, Jurado filed his second motion and brief to amend the judgment which addressed the propriety of the Court having awarded attorneys' fees to Plaintiffs. A hearing on this motion was held on August 25, 1997, in Las Cruces, New Mexico. The Court found that Jurado's second motion to amend the judgment should be granted in part and, accordingly, reduced the amount awarded to Plaintiffs for attorneys' fees by \$16,868.75. At that same time, the Court awarded Plaintiffs an additional \$2,912.50 for attorneys' fees incurred in responding to Defendants' two motions to amend the judgment.

Plaintiffs' second application covers the period of time from June 16, up to and including the hearing of August 25, 1997, and seeks further compensation for Plaintiff's attorneys in the amount of \$3,343.75 for the work of Olga Pedroza and \$1,500.00 for the work of Ismael Alvarez. The Court finds this time was not reasonably expended on the litigation or in advancing the interests of Plaintiffs, but only that of their attorneys. Nor could Plaintiffs' attorneys be deemed the prevailing parties on these motions. Accordingly, the Court does not find the second motion for attorneys' fees is well taken in light of the previous relatively generous calculation of attorneys' fees.

O R D E R

Plaintiffs' Second Supplemental Application for Fees [#95] is therefore
DENIED.

Dated at Albuquerque this 21st day of November, 1997.



BRUCE D. BLACK
United States District Judge

Counsel for Plaintiffs

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